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3                   **IN THE UNITED STATES DISTRICT COURT**  
4                   **FOR THE DISTRICT OF ARIZONA**

5                   **IN RE BARD IVC FILTERS**  
6                   **PRODUCTS LIABILITY LITIGATION**

5                   No. MD-15-02641-PHX-DGC

6                   **FIRST AMENDED SHORT FORM**  
7                   **COMPLAINT FOR DAMAGES FOR**  
8                   **INDIVIDUAL CLAIMS AND DEMAND**  
9                   **FOR JURY TRIAL**

10 Plaintiff(s) named below, for their Complaint against Defendants named below,  
11 Incorporates the Master Complaint for Damages in MDL 2641 by reference (Doc. 364 ).  
12 Plaintiff(s) further show the Court as follows:

13         1. Plaintiff/Deceased Party:

14                   Michael W. Messer

15         2. Spousal Plaintiff/Deceased Party's spouse or other party making loss of  
16                   consortium claim:

17                   N/A

18         3. Other Plaintiff and capacity (i.e., administrator, executor, guardian,  
19                   conservator):

20                   Anthony Messer, as Personal Representative of the Estate of Michael W. Messer

21         4. Plaintiff's/Deceased Party's state(s) [if more than one Plaintiff] of residence at  
22                   the time of implant:

23                   Kentucky

5. Plaintiff's/Deceased Party's state(s) [if more than one Plaintiff] of residence at the time of injury:

## Kentucky

6. Plaintiff's current state(s) [if more than one Plaintiff] of residence:

## Kentucky

7. District Court and Division in which venue would be proper absent direct filing:

Eastern District of Kentucky

8. Defendants (check Defendants against whom Complaint is made):

X C.R. Bard Inc.

X Bard Peripheral Vascular, Inc.

#### **9. Basis of Jurisdiction:**

X Diversity of Citizenship

Other:

a. Other allegations of jurisdiction and venue not expressed in Master Complaint:

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10. Defendants' Inferior Vena Cava Filter(s) about which Plaintiff(s) is making a claim (Check applicable Inferior Vena Cava Filter(s)):

#### Recovery® Vena Cava Filter

G2® Vena Cava Filter

- G2® Express(G2®X) VenaCavaFilter
  - Eclipse® Vena Cava Filter
  - Meridian® Vena Cava Filter
  - Denali® VenaCavaFilter
  - Other:

11. Date of Implantation as to each product:

On or about May 13, 2013

12. Counts in the Master Complaint brought by Plaintiff(s):

X      Count I:      Strict Products Liability – Manufacturing Defect

X Count II: Strict Products Liability – Information Defect (Failure to Warn)

### X Count III: Strict Products Liability – Design Defect

## X Count IV: Negligence - Design

## X Count V: Negligence - Manufacture

X Count VI: Negligence – Failure to Recall/Retrofit

X Count VII: Negligence – Failure to Warn

## X Count VIII: Negligent Misrepresentation

X Count IX: Negligence *Per Se*

X Count X: Breach of Express Warranty

**X Count XI: Breach of Implied Warranty**

X Count XII: Fraudulent Misrepresentation

## X Count XIII: Fraudulent Concealment

X Count XIV: Violations of Applicable Kentucky

# Law Prohibiting Consumer Fraud and Unfair and Deceptive Trade Practices

Count XV: Loss of Consortium

## X Count XVI: Wrongful Death

X Count XVII: Survival

X Punitive Damages

Other(s): \_\_\_\_\_ (please state the facts supporting this Count in the space immediately below)

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www.nature.com/scientificreports/

13. Jury Trial demanded for all issues so triable?

x Yes

□ No

1 RESPECTFULLY SUBMITTED this 6<sup>th</sup> day of October, 2017.

3 By: /s/ Julie Ferraro  
5 Julie Ferraro  
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